

111TH CONGRESS  
2D SESSION

# H. R. 4979

To amend chapters 83 and 84 of title 5, United States Code, to provide for the indexation of deferred annuities; to provide that a survivor annuity be provided to the widow or widower of a former employee who dies after separating from Government service with title to a deferred annuity under the Civil Service Retirement System but before establishing a valid claim therefor, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 25, 2010

Mr. MORAN of Virginia (for himself, Mr. WOLF, Mr. CONNOLLY of Virginia, and Ms. NORTON) introduced the following bill; which was referred to the Committee on Oversight and Government Reform, and in addition to the Committee on House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend chapters 83 and 84 of title 5, United States Code, to provide for the indexation of deferred annuities; to provide that a survivor annuity be provided to the widow or widower of a former employee who dies after separating from Government service with title to a deferred annuity under the Civil Service Retirement System but before establishing a valid claim therefor, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. INDEXATION OF DEFERRED ANNUITIES.**

2 (a) AMENDMENTS TO SUBCHAPTER III OF CHAPTER  
3 83.—Section 8338 of title 5, United States Code, is  
4 amended—

5 (1) in subsection (d) by striking “(d) An” and  
6 inserting “(d) Subject to subsection (e), an”; and

7 (2) by adding at the end the following:

8 “(e)(1) The average pay used in the computation of  
9 an annuity authorized by this section shall be equal to the  
10 average pay described in section 8331(4), increased by the  
11 percentage adjustments (compounded) in rates of pay of  
12 the General Schedule taking effect during the period—

13 “(A) beginning on the day after the date of the  
14 separation on which title to annuity is based; and

15 “(B) ending on the day before the commence-  
16 ment date of such annuity.

17 “(2) In the case of a former employee or Member who  
18 dies after having separated from the service with title to  
19 an annuity authorized by this section but before having  
20 established a valid claim for such annuity, the average pay  
21 used in the computation of any survivor annuity payable  
22 based on the service of such former employee or Member  
23 shall be increased in the manner described in paragraph  
24 (1), except that, in applying subparagraph (B) of para-  
25 graph (1) for purposes of this paragraph, the commence-  
26 ment date of such survivor annuity shall be used instead

1 of the commencement date of the annuity referred to in  
2 such subparagraph.

3 “(3) Average pay shall not be increased by reason  
4 of any adjustment under this subsection to an amount  
5 which exceeds the rate of basic pay that, as of the day  
6 before the commencement date of the annuity or survivor  
7 annuity involved, is payable for the position that was held  
8 by the employee or Member at the time of earning the  
9 highest rate of pay taken into account in computing such  
10 employee’s or Member’s average pay, as determined under  
11 regulations of the Office.”.

12 (b) AMENDMENT TO CHAPTER 84.—Section 8415 of  
13 title 5, United States Code, is amended by adding at the  
14 end the following:

15 “(n)(1) The average pay used in the computation of  
16 a deferred annuity under section 8413 shall be equal to  
17 the average pay described in section 8401(3), increased  
18 by the percentage adjustments (compounded) in rates of  
19 pay of the General Schedule taking effect during the pe-  
20 riod—

21 “(A) beginning on the day after the date of the  
22 separation on which title to annuity is based; and

23 “(B) ending on the day before the commence-  
24 ment date of such annuity.

1       “(2) In the case of a former employee or Member who  
2 dies after having separated from the service with title to  
3 a deferred annuity referred to in paragraph (1) but before  
4 having established a valid claim for such annuity, the aver-  
5 age pay used in the computation of any survivor annuity  
6 payable based on the service of such former employee or  
7 Member shall be increased in the manner described in  
8 paragraph (1), except that, in applying subparagraph (B)  
9 of paragraph (1) for purposes of this paragraph, the com-  
10 mencement date of such survivor annuity shall be used  
11 instead of the commencement date of the annuity referred  
12 to in such subparagraph.

13       “(3) Average pay shall not be increased by reason  
14 of any adjustment under this subsection to an amount  
15 which exceeds the rate of basic pay that, as of the day  
16 before the commencement date of the annuity or survivor  
17 annuity involved, is payable for the position that was held  
18 by the employee or Member at the time of earning the  
19 highest rate of pay taken into account in computing such  
20 employee’s or Member’s average pay, as determined under  
21 regulations of the Office.”.

22       (c) AMENDMENTS RELATING TO INDIVIDUALS BE-  
23 COMING SUBJECT TO FERS BY ELECTION.—

24               (1) COMPUTATION OF A DEFERRED ANNUITY.—

25       Paragraph (6) of section 302(a) of the Federal Em-

1        ployees’ Retirement System Act of 1986 (5 U.S.C.  
2        8331 note) is amended by adding at the end the fol-  
3        lowing:

4                “(C) In determining average pay under  
5        this paragraph for purposes of computing a de-  
6        ferred annuity under section 8413 of such  
7        title—

8                “(i) the provisions of section  
9        8338(e)(1) and (3) of such title shall  
10       apply, to the extent that such annuity is  
11       computed under paragraph (4); and

12               “(ii) the provisions of section  
13       8415(n)(1) and (3) of such title shall  
14       apply, to the extent that such annuity is  
15       computed under paragraph (5).”.

16        (2) COMPUTATION OF A SURVIVOR ANNUITY.—

17        Paragraph (9) of such section 302(a) is amended by  
18        striking “(9)” and inserting “(9)(A)”, and by add-  
19        ing at the end the following:

20               “(B) In computing an annuity under para-  
21        graph (3) for purposes of determining the  
22        amount of a survivor annuity under subchapter  
23        IV of chapter 84 of title 5, United States Code,  
24        to which the survivor is entitled based on the  
25        service of a former employee or Member who

1           dies in the circumstances described in section  
2           8415(n)(2) of such title—

3                   “(i) paragraph (6)(C)(i) shall apply,  
4                   to the extent that such annuity is com-  
5                   puted under paragraph (4); and

6                   “(ii) paragraph (6)(C)(ii) shall apply,  
7                   to the extent that such annuity is com-  
8                   puted under paragraph (5).”.

9           (d) CONFORMING AMENDMENTS.—(1) Section  
10       8331(10) of title 5, United States Code, is amended by  
11       inserting “former employee or Member,” before “or annu-  
12       itant”.

13           (2) Section 8341(h)(1) of title 5, United States Code,  
14       is amended by striking “or former Member who was sepa-  
15       rated from the service with title to a deferred annuity  
16       under section 8338(b) of this title” and inserting “or  
17       former employee or Member who died after having sepa-  
18       rated from the service with title to a deferred annuity  
19       under section 8338 but before having established a valid  
20       claim for annuity,”.

21           (3) Clause (iii) of section 8341(h)(2)(B) of title 5,  
22       United States Code, is amended by striking “a Member”  
23       and inserting “an employee or Member”.

1 **SEC. 2. AMENDMENT TO PROVIDE THAT THE WIDOW OR**  
2 **WIDOWER OF A DEFERRED ANNUITANT WHO**  
3 **DIES BEFORE ESTABLISHING A VALID CLAIM**  
4 **FOR ANNUITY UNDER CSRS SHALL BE ELIGI-**  
5 **BLE FOR A SURVIVOR ANNUITY IN THE SAME**  
6 **WAY AS APPLIES CURRENTLY UNDER FERS.**

7 Subsection (f) of section 8341 of title 5, United  
8 States Code, is amended to read as follows:

9 “(f) If an employee or Member dies after having sepa-  
10 rated from the service with title to a deferred annuity  
11 under section 8338 but before having established a valid  
12 claim for annuity, and is survived by a widow or widower  
13 to whom married on the date of separation, the widow or  
14 widower—

15 “(1) is entitled to an annuity equal to 55 per-  
16 cent of the deferred annuity of the employee or  
17 Member commencing on the day after the employee  
18 or Member dies and terminating on the last day of  
19 the month before the widow or widower dies or re-  
20 marries before age 55; or

21 “(2) may elect to receive the lump-sum credit  
22 instead of annuity if the widow or widower is the in-  
23 dividual who would be entitled to the lump-sum  
24 credit and files application therefor with the Office  
25 before the award of the annuity.

1 Notwithstanding the preceding sentence, an annuity pay-  
 2 able under this subsection to the widow or widower of a  
 3 former employee or Member may not exceed the difference  
 4 between—

5           “(A) the annuity which would otherwise be pay-  
 6       able to such widow or widower under this subsection;  
 7       and

8           “(B) the amount of the survivor annuity pay-  
 9       able to any former spouse of such former employee  
 10      or Member under subsection (h).”.

11 **SEC. 3. EFFECTIVE DATES.**

12       (a) AMENDMENTS MADE BY SECTION 1.—

13           (1) IN GENERAL.—The amendments made by  
 14       section 1 shall apply to any annuity or survivor an-  
 15       nuity commencing before, on, or after the date of  
 16       the enactment of this Act, subject to paragraph (2).

17           (2) RECOMPUTATIONS.—In the case of any in-  
 18       dividual who is entitled to an annuity or survivor an-  
 19       nuity based on a separation from service which oc-  
 20       curred before the date of the enactment of this  
 21       Act—

22           (A) such annuity or survivor annuity shall  
 23       be recomputed to take into account the amend-  
 24       ments made by section 1 only if application  
 25       therefor is made within 12 months after the ef-



fective date of regulations prescribed by the Office of Personnel Management to carry out such amendments; and

(B) any change in an annuity or survivor annuity resulting from a recomputation under subparagraph (A) shall be effective only with respect to amounts accruing for months beginning on or after the date of the enactment of this Act.

(b) AMENDMENT MADE BY SECTION 2.—The amendment made by section 2 shall take effect as of the date of the enactment of this Act. Upon timely application to the Office of Personnel Management, such amendment shall also apply to the widow or widower of a former employee or Member who died before such date of enactment, except that no amount shall be payable—

(1) for any period beginning before such date of enactment; or

(2) in any case in which all annuity rights under subchapter III of chapter 83 of title 5, United States Code, have been voided due to the lump-sum credit having been taken.

(c) SAVINGS PROVISION.—Nothing in section 2 shall affect the right of an individual to a survivor annuity, based on a death occurring on or after the date of the

1 enactment of this Act, if such individual would (upon filing  
2 claim therefor) have been entitled to such annuity had sec-  
3 tion 2 not been enacted.

4 (d) DEFINITIONS.—For purposes of this section—

5 (1) the terms “widow” and “widower” have the  
6 respective meanings given them by section 8341 of  
7 title 5, United States Code; and

8 (2) the term “lump-sum credit” has the mean-  
9 ing given such term by section 8331(8) of such title.

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